

Regulation of Professional Services (Chapter 19)

SEC. 69-19-1. Commissioner of agriculture and commerce to regulate.

The commissioner of agriculture and commerce shall have the power to make rules and regulations to govern the qualifications and the practicing of persons engaged in the professional services herein defined and to prevent fraudulent practices in the said professional services. No such rule or regulation shall be effective unless and until the same shall have been approved by the advisory board created under the provisions of section [69-25-3](#), Mississippi Code of 1972.

SOURCES: Codes, 1942, Sec. 5006; Laws, 1938, ch. 171; 1971, ch. 476, Sec. 1, eff from and after July 1, 1971.

SEC. 69-19-3. Persons subject; exceptions.

This chapter shall apply only to persons soliciting work and engaged in the work defined in this chapter as a profession; but in no event shall it be construed so as to apply to any person employed by the owners or others in possession of property to work under his supervision in grafting, spraying, dusting cotton or any such work.

SOURCES: Codes, 1942, Sec. 5011; Laws, 1938, ch. 171; 1971, ch. 476, Sec. 6, eff from and after July 1, 1971.

SEC. 69-19-5. Definitions.

Professional services are defined as follows:

(a) Entomological work. Receiving fees for advice or prescriptions for the control or eradication of any insect pest or rodent. Receiving fees for actual spraying, dusting, fumigating or any other methods used for the control or eradication of any insect pest or rodent. When the majority of the income of an operation, business or individual comes from the actual operation of a farm and the sale of crops therefrom and, as a service to other farmers, these services are performed, such services shall not be included in this definition.

(b) Plant pathological work. Receiving fees for advice or prescriptions for the control or eradication of any plant disease. Receiving fees for actual spraying or any other methods used for the control or eradication of any plant disease. When the majority of the income of an operation, business or individual comes from the actual operation of a farm and the sale of crops therefrom and, as a service to other farmers, these services are performed, such services shall not be included in this definition.

(c) Horticultural and floricultural work. Receiving fees for landscaping and setting of plants or for the sale of any plants for which the seller contracts to render future services.

(d) Tree surgery work. Advertising in a local phone book, newspaper, newsletter, bulletin or other prominently displayed sign as a licensed or bonded tree surgeon and receiving compensation for any work or consultation relative to the care, pruning, cabling, bracing, topping, trimming, fertilizing, cavity work and removal of ornamental trees and shrubs in any manner. Nothing shall prevent any person from performing such services as long as their advertising does not include the description licensed or bonded.

(e) Weed control work. Receiving fees for advice or prescriptions for the control or eradication of any weed. Receiving fees for actual spraying or other methods used for the control or eradication of any plant which grows where not wanted. When the majority of the income of an operation, business or individual comes from the actual operation of a farm and the sale of crops therefrom

and, as a service to other farmers, these services are performed, such services shall not be included in this definition.

(f) Soil classifying work. Receiving compensation for plotting the boundaries of soil and describing and evaluating the kinds of soil as to their behavior and response to management under various uses.

SOURCES: Codes, 1942, Sec. 5007; Laws, 1938, ch. 171; 1971, ch. 476, Sec. 2; 1972, ch. 378, Sec. 1; 1979, ch. 338, Sec. 1. Laws, 1993, ch. 414, Sec. 1; 1995, ch. 591, Sec. 1, eff from and after passage (approved April 7, 1995)

SEC. 69-19-7. Person defined.

For the purpose of this chapter the word "person" shall be construed to mean an individual, a partnership, or a corporation.

SOURCES: Codes, 1942, Sec. 5008; Laws, 1938, ch. 171; 1971, ch. 476, Sec. 3, eff from and after July 1, 1971.

SEC. 69-19-9. License; bond; proof of insurance.

(1) Any person desiring to engage in professional services or work as herein defined shall obtain from the Commissioner of Agriculture and Commerce a license to engage in such professional work, and the application for such license shall be in writing and on such blank forms as may be required. No fee shall be required for the license. The Commissioner of Agriculture and Commerce shall require applicants to submit statements as to training and experience in professional practice and may further require applicants to pass such tests or examinations as the commissioner may prescribe. The Commissioner of Agriculture and Commerce may require an applicant to furnish to him a fidelity bond satisfactory to him and conditioned that the principal therein named shall conduct honestly such business; provided that in no case shall a bond exceeding Ten Thousand Dollars (\$10,000.00) be required. A copy of the bond, duly certified by the Commissioner of Agriculture and Commerce or his agent, the State Entomologist, shall be received as evidence in all of the courts of this state without further proof. Any bond issued before the effective date of this chapter shall be deemed to be effective until the expiration date stated thereon. Any person having a right of action against such person may bring suit against the principal and sureties of such bond. Should the surety furnished become unsatisfactory, such person shall execute a new bond, and should he fail to do so, it shall be the duty of the Commissioner of Agriculture and Commerce or his agent, the State Entomologist, to cancel his license and give him notice of such fact, and it shall be unlawful thereafter for such person to engage in such business without obtaining a new license.

(2) In addition to the requirements of subsection (1) of this section, the Commissioner of Agriculture and Commerce, with the approval of the Advisory Board to the Bureau of Plant Industry, may require persons providing professional services as defined in this chapter to provide satisfactory proof of insurance against negligent or careless provision of such services. Such insurance shall be in an amount determined by the advisory board, but shall not exceed Two Hundred Thousand Dollars (\$200,000.00). Such insurance shall be in effect before a person may offer such professional services to the general public. Notice of cancellation or failure to renew such insurance shall be provided to the advisory board by the persons offering such professional services. The license to engage in such professional work shall be revoked if proof of insurance is not provided to the advisory board by the licensee within thirty (30) days of the notice of cancellation or failure to renew such insurance.

(3) For horticultural and floricultural work and soil classifying work, as defined in Section [69-19-5](#), such fidelity bond which may be required shall be in an amount not to exceed One Thousand Two

Hundred Fifty Dollars (\$1,250.00) and such insurance which may be required shall be in an amount not to exceed One Hundred Thousand Dollars (\$100,000.00).

(4) No such bond and insurance shall be required from any person providing professional services as defined in this chapter if the Commissioner of Insurance certifies that such bond and insurance is not available to such person.

SOURCES: Codes, 1942, Sec. 5009; Laws, 1938, ch. 171; 1971, ch. 476, Sec. 4, eff from and after July 1, 1971. Laws, 1992, ch. 474, Sec. 9, eff from and after July 1, 1992.

SEC. 69-19-11. Penalties.

Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than six months, or by both such fine and imprisonment at the discretion of the court having jurisdiction.

SOURCES: Codes, 1942, Sec. 5010; Laws, 1938, ch. 171; 1971, ch. 476, Sec. 5, eff from and after July 1, 1971.

1997 Amendment:

Repealed

SOURCE: 1997 Laws, Chapter 449, Sec. 5, SB2637, Effective March 25, 1997.

SEC. 69-19-13. Waiver of provisions of chapter in cases of natural disaster.

The Bureau of Plant Industry, Department of Agriculture and Commerce, in cases of natural disaster, may waive any and all provisions of this chapter.

SOURCES: Laws, 1995, ch. 591, Sec. 2, eff from and after passage (approved April 7, 1995)

SEC. 69-19-15. [To provide penalties for engaging in certain professional services without a license from the commssioner of agriculture and commerce.]

(1)(a) Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto at a minimum is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than one (1) year or by both such fine and imprisonment at the discretion of the court having jurisdiction.

(b) Each violation and each day's violation shall constitute a separate offense.

(c) Any person violating any of the provisions of this chapter or the rules and regulations made by the commissioner pursuant thereto in such a way that causes harm or poses a threat to man, animals or the environment is guilty of a felony and, upon conviction, shall be punished by a fine of not more than Twenty-five Thousand Dollars (\$25,000.00) or by imprisonment in the State Penitentiary for a term of not more than twenty (20) years or by both such fine and imprisonment for each violation.

(2) Each violation of this chapter or the rules and regulations promulgated thereunder may subject the violator to civil action as provided for in Sections 69-25-51 through 69-25-65.

SOURCES: 1997 Laws, Chapter 449, Sec. 3, SB2637, Effective July 1, 1997.